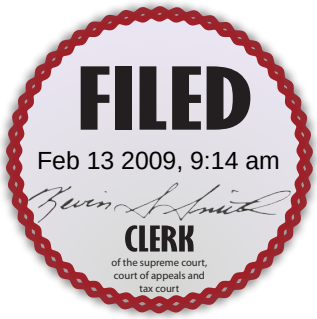

ATTORNEY FOR APPELLANT:

DONALD C. SWANSON, JR.
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

GARY DAMON SECREST
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

DARIN A. CHARLTON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A04-0811-CR-661
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Kenneth Scheibenberger, Judge
Cause No. 02D04-0803-FD-231

February 13, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Darin Charlton appeals his sentence for possession of cocaine as a class D felony.[1] Charlton raises one issue, which we revise and restate as whether his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.[2]

The relevant facts follow.[3] On March 13, 2008, Charlton was a passenger in a vehicle that was searched for stolen credit cards. During the search, the police discovered a section of a metal coat hanger bent on one end and a broken glass tube about two inches long with burnt residue on one end in Charlton's coat pocket. A later search revealed that Charlton had two small rock-like pieces that tested positive for cocaine.

---

[1] Ind. Code § 35-48-4-6 (Supp. 2006).

[2] Charlton included a copy of the presentence investigation report on white paper in his appendix. See Appellant's Appendix at 12-18. We remind Charlton that Ind. Appellate Rule 9(J) requires that "[d]ocuments and information excluded from public access pursuant to Administrative Rule 9(G)(1) shall be filed in accordance with Trial Rule 5(G)." Ind. Administrative Rule 9(G)(1)(b)(viii) states that "[a]ll pre-sentence reports pursuant to Ind. Code § 35-38-1-13" are "excluded from public access" and "confidential." The inclusion of the presentence investigation report printed on white paper in his appellant's appendix is inconsistent with Trial Rule 5(G), which states, in pertinent part:

> Every document filed in a case shall separately identify information excluded from public access pursuant to Admin. R. 9(G)(1) as follows:
>
> (1) Whole documents that are excluded from public access pursuant to Administrative Rule 9(G)(1) shall be tendered on light green paper or have a light green coversheet attached to the document, marked "Not for Public Access" or "Confidential."
>
> (2) When only a portion of a document contains information excluded from public access pursuant to Administrative Rule 9(G)(1), said information shall be omitted [or redacted] from the filed document and set forth on a separate accompanying document on light green paper conspicuously marked "Not For Public Access" or "Confidential" and clearly designating [or identifying] the caption and number of the case and the document and location within the document to which the redacted material pertains.

[3] The record does not contain a transcript of the guilty plea hearing.

On March 19, 2008, the State charged Charlton with possession of cocaine as a class D felony and possession of paraphernalia as a class A misdemeanor. On June 13, 2008, Charlton pled guilty to possession of cocaine as a class D felony, and the State dismissed the charge of possession of paraphernalia as a class A misdemeanor. The trial court found no mitigators and the following aggravators: Charlton's criminal history, Charlton's prior failed attempts at rehabilitation, and the fact that Charlton was on parole at the time of the offense. The trial court sentenced Charlton to serve three years in the Department of Correction.

The sole issue is whether Charlton's sentence is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Charlton requests that his sentence be modified to a two-year sentence with six months executed and one and one-half years of probation.

Our review of the nature of the offense reveals that Charlton possessed cocaine. Our review of the character of the offender reveals Charlton pled guilty to possession of cocaine as a class D felony, and the State dismissed a charge of possession of paraphernalia as a class A misdemeanor. As a juvenile, Charlton had three adjudications

for truancy and adjudications for shoplifting and second-degree burglary. As an adult, in 1981, Charlton was convicted of robbery as a class B felony. In 1984, Charlton was convicted of theft as a class D felony. In 1987, Charlton was convicted of criminal mischief. In 1988, Charlton was convicted of resisting law enforcement. In 1989, Charlton was convicted of theft as a class D felony and resisting law enforcement as a class A misdemeanor. In 1991, Charlton was convicted of criminal conversion, theft as a class D felony, and resisting law enforcement as a class A misdemeanor. In 1993, Charlton was convicted of operating while intoxicated, operating while suspended, leaving the scene of an accident, and no financial responsibility. In 1994, Charlton was convicted of criminal conversion. In 1995, Charlton was convicted of burglary as a class B felony and resisting law enforcement as a class A misdemeanor. In 2006, Charlton was convicted of public intoxication and unauthorized absence from home detention. Charlton committed the current offense while he was on parole.

Regarding Charlton's drug abuse, Charlton reported that he began experimenting with alcohol as a teenager, drinking once per week "which remained the same until his arrests in the 90's." Appellant's Appendix at 17. From his release to parole in August 2007 until his arrest in April 2008, he was drinking twice per week. Charlton used marijuana as a teenager until his arrests in the 1990s. Charlton used cocaine when not incarcerated once per week from his teenage years until April 2008. Charlton completed Phase II of substance abuse treatment through Alcoholics Anonymous in the Indiana Department of Correction in 2006 "in order to earn good time credit." Id.

Given Charlton's extensive criminal history and after due consideration of the trial court's decision, we cannot say that the sentence imposed by the trial court is inappropriate in light of the nature of the offense and the character of the offender.

For the foregoing reasons, we affirm Charlton's sentence for possession of cocaine as a class D felony.

Affirmed.

ROBB, J. and CRONE, J. concur